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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**
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8 UNITED STATES OF AMERICA,
9 Plaintiff,

10 vs.

11 JUAN ALEJO-DIAZ,
12 Defendant.
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2:12-cr-00047-KJD -VCF-1

ORDER

(Motion for Dismissal of Charges #28, Motion to Strike Motion to Dismiss #29, and Motion To Dismiss Counsel and Appointment of Counsel #32)

14 Before the court is defendant Alejo-Diaz's Motion For Dismissal of Charges. (#28). The
15 government filed a Motion to Strike defendant's Motion For Dismissal of Charges. (#29).

16 Also before the court is defendant Alejo-Diaz's Motion To Dismiss Counsel and For
17 Appointment of Alternate Counsel. (#32).

18 **A. Background**

19 An indictment was filed against defendant Alejo-Diaz on February 14, 2012. (#1). The court
20 signed a writ of habeas corpus ad prosequendum on the same day, as defendant Alejo-Diaz was in State
21 custody. (#5). On February 24, 2012, defendant Alejo-Diaz made his initial appearance and
22 arraignment and plea. (#7). Defendant Alejo-Diaz plead not guilty, the Public Defender's Office was
23 appointed to represent him (#10), and he was remanded to custody (#12). *Id.* Attorney Jonathan
24 Sussman filed a notice of appearance on February 29, 2012, stating that he will serve as counsel for
25 defendant Alejo-Diaz. (#13). On April 2, 2012, the court issued an order substituting Jess R. Marchese,
Esq. as defendant Alejo-Diaz's counsel for all future proceedings. (#17). On September 18, 2012, the
court continued the trial until December 3, 2012. (#27).

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2 **B. Motion For Dismissal/Motion to Strike/Motion Dismiss Counsel**

3 Defendant Alejo-Diaz filed the motion for dismissal of charges (#28) and motion to dismiss
4 counsel (#32) on his own behalf. In the government's motion, it asks this court to strike the defendant's
5 motion for dismissal of charges (#28), because defendant is represented by counsel and is not permitted
6 to file motions on his own behalf. (#29).

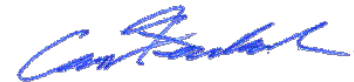
7 Pursuant to Local Rule IA 10-6(a), "[a] party who has appeared by attorney cannot while so
8 represented appear or act in the case. An attorney who has appeared for a party shall be recognized by
9 the Court and all the parties as having control of the client's case." As Mr. Marchese is defendant's
10 counsel of record (#17), and counsel has not filed a motion to withdraw as counsel, defendant may not
11 file motions on his own behalf. See LR IA 10-6(a). The instant motion for dismissal of charges (#28)
12 and motion to dismiss counsel (#32) are improper and stricken.

13 Accordingly and for good cause shown,

14 IT IS FURTHER ORDERED that the government's Motion to Strike the Motion to Dismiss
15 (#29) is GRANTED.

16 IT IS FURTHER ORDERED that defendant's Motion For Dismissal (#28) and Motion To
17 Dismiss Counsel and For Appointment of Alternate Counsel (#32) are STRICKEN.

18 DATED this 9th day of October, 2012.

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20 CAM FERENBACH
21 UNITED STATES MAGISTRATE JUDGE
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